IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10121 OF 2004

Shri Sharad Rajaram Jadhav — Petitioner
vs.
Union of India & ors. — Respondents

Mr.Vijay Pradhan i/b. Mr.S.A.Bhagwat for the petitioner.

Mr.T.J.Pandian for the respondent.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 14th March 2005

P.C.

Heard the learned counsel for the petitioner.

2. The petitioner approached the Central Administrative Tribunal, Mumbai interalia seeking the reliefs that he was entitled to the benefit of seniority and promotion as junior clerk with effect from 19th October 1982 and further entitled to the benefit of promotion to the post of senior clerk with effect from 5th March 1990 that is the date from which S.E.Patil was granted the same benefit.

3. The Tribunal held that the case of the petitioner was not similar to that of S.E.Patil. The Tribunal in paragraph 10 of its order observed thus:

"10. We have considered the case of the applicant on the ground of parity with S.E.Patil as both were promoted on adhoc basis on from the post of temporary Gangman to junior clerk. There was selection in 1986 in which Patil was not selected. However in another selection in 1988 Patil was selected and the applicant did not participate in this selection as according to him he was unwell. Later the applicant was regularised with effect from 11.1.1996 after clearing the selection process. Therefore claiming parity with SE Patil has no validity. There are a number of decisions based on the decision given by; the 5 Judge Bench of the Apex Court in the case of K.C.Sharma v/s. Union of India 1998 SCC L & S.226 where it has been held that if relief has been granted to an employee by the court, there is no limitation for similarly placed persons to claim the same relief. However the facts in the present case are not exactly the same as in the case of S.E.Patil as has been discussed above, Had the applicant also appeared in the selection in 1988 and regularised along with S.E.Patil, his claim for parity with S.E.Patil could have been valid which is evidently is not the case. The Judgement cited by the applicant i.e. direct recruit class II Engineering Association v/s. State of Maharashtra is not entirely applicable in the case of the applicant as he had to clear another suitable test which he did only in 1996. Therefore even though both S.E.Patil and applicant were promoted on adhoc basis in 1982 and 1983 to the higher rank, the facts in the case of the two employees become different later in their service and the applicant cannot be treated at par with S.E.Patil. Under the circumstances, we do not think that any case has been made out to give any kind of relief to the applicant."

4. In our view, the Tribunal cannot be said to have erred in holding that the case of the petitioner was not similar to S.E.Patil and that the petitioner is not entitled to claim parity with S.E.Patil.

5. No case for interference is made out.

6. Writ petition is dismissed in limine.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)